

Article 72.

Nonpoint Source Pollution Control Program.

**§ 106-850. Agriculture cost share program.**

(a) There is created the Agriculture Cost Share Program for Nonpoint Source Pollution Control. The program shall be created, implemented, and supervised by the Soil and Water Conservation Commission.

(b) The program shall be subject to the following requirements and limitations:

- (1) The purpose of the program shall be to reduce the input of agricultural nonpoint source pollution into the watercourses of the State.
- (2) The program shall initially include the present 16 nutrient sensitive watershed counties and 17 additional counties.
- (3) Subject to subdivision (7) of this subsection, priority designations for inclusions in the program shall be under the authority of the Soil and Water Conservation Commission. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds.
- (4) Areas shall be included in the program as the funds are appropriated and the technical assistance becomes available from the local Soil and Water Conservation District.
- (5) Funding may be provided to assist practices including conservation tillage, diversions, filter strips, field borders, critical area plantings, sedimentation control structures, sod-based rotations, grassed waterways, strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, closure of lagoons, emergency spillways, riparian buffers or equivalent controls, odor control best management practices, insect control best management practices, and animal waste management systems and application. Funding for animal waste management shall be allocated for practices in river basins such that the funds will have the greatest impact in improving water quality.
- (6) Except as provided in subdivision (8) of this subsection, State funding shall be limited to seventy-five percent (75%) of the average cost for each practice with the assisted farmer providing twenty-five percent (25%) of the cost, which may include in-kind support of the practice, with a maximum of seventy-five thousand dollars (\$75,000) per year to each applicant.
- (7) Priority designation for inclusion in the program for State funding shall be given to projects that improve water quality. To be eligible for cost share funds under this subdivision, a project shall be evaluated before funding is awarded and after the project is completed to determine the impact on water quality.
- (8) For practices that are eligible for funding from the federal Conservation Reserve Enhancement Program, State funding from the program shall be limited to seventy-five percent (75%) of the average cost of each practice, with the remainder paid from funding from the Conservation Reserve Enhancement Program, other available federal funds, other State funds, or the assisted farmer, whose contribution may include in-kind support of the practice. This subdivision is subject to subdivision (9) of this subsection.
- (9) When the applicant is either (i) a limited-resource farmer, (ii) a beginning farmer, or (iii) a person farming land that is located in an enhanced voluntary

agricultural district and is subject to a conservation agreement under G.S. 106-743.2 that remains in effect, State funding shall be limited to ninety percent (90%) of the average cost for each practice with the assisted farmer providing ten percent (10%) of the cost, which may include in-kind support of the practice, with a maximum of one hundred thousand dollars (\$100,000) per year to each applicant. The following definitions apply in this subdivision:

- a. Beginning farmer. – A farmer who has not operated a farm or who has operated a farm for not more than 10 years and who will materially and substantially participate in the operation of the farm.
- b. Enhanced voluntary agricultural district. – A district established by a county or a city by ordinance under Part 3 of Article 61 of this Chapter.
- c. Limited-resource farmer. – A farmer with direct and indirect annual gross farm sales that do not exceed one hundred thousand dollars (\$100,000) and with an adjusted household income in each of the previous two years that is at or below the greater of the county median household income, as determined by the United States Department of Housing and Urban Development, or two times the national poverty level based on the federal poverty guidelines established by the United States Department of Health and Human Services and revised each April 1.
- d. Materially and substantially participate.
  1. In the case of an individual, for the individual, including members of the immediate family of the individual, to provide substantial day-to-day labor and management of the farm, consistent with the practices in the county in which the farm is located.
  2. In the case of an entity, for all members of the entity, to participate in the operation of the farm, with some members providing management and some members providing labor and management necessary for day-to-day activities such that if the members did not provide the management and labor, the operation of the farm would be seriously impaired.

(10) To be eligible for cost share funds under this program, each applicant must establish that the applicant meets the definition of a bona fide farm as described by G.S. 153A-340(b)(2).

(11) In extraordinary circumstances, the Commission may permit an applicant to establish that he or she is engaged in farming with an alternate form of documentation if the farm has a conservation plan that meets the statutory purposes of the program.

(c) The program shall be reviewed, prior to implementation, by the Committee created by G.S. 106-852. The Technical Review Committee shall meet quarterly to review the progress of this program.

(d) State funds for the program shall remain available until expended for the program.

(e) The Soil and Water Conservation Commission shall report on or before January 31 of each year to the Environmental Review Commission, the Department of Agriculture and Consumer Services, and the Fiscal Research Division. This report shall include a list of projects

that received State funding pursuant to the program, the results of the evaluations conducted pursuant to subdivision (7) of subsection (b) of this section, findings regarding the effectiveness of each of these projects to accomplish its primary purpose, and any recommendations to assure that State funding is used in the most cost-effective manner and accomplishes the greatest improvement in water quality. This report shall be submitted to the Environmental Review Commission and the Fiscal Research Division with the reports required by G.S. 106-860(e) and G.S. 139-60(d) as a single report. (1985 (Reg. Sess., 1986), c. 1014, s. 149(a); 1987, c. 827, s. 154; c. 830, s. 102; 1995 (Reg. Sess., 1996), c. 626, ss. 9, 10; 1996, 2nd Ex. Sess., c. 18, s. 27.22(a), (b); 1997-496, s. 15; 1998-221, s. 3.1; 2002-165, s. 2.18; 2003-284, s. 11.6; 2004-124, s. 12.6; 2005-390, s. 8; 2007-495, s. 18; 2011-145, ss. 13.22A(a), (t)-(w), 13.23A(a); 2011-391, s. 32; 2012-142, s. 11.2A(a); 2015-263, s. 37(a); 2017-10, s. 4.18(a).)

**§ 106-851. Program participation.**

Participation in the program shall be voluntary.

All participants in the program shall be required to match State funds at the same rate, and assistance from the Agriculture Extension Service at North Carolina State University shall also be used. (1985 (Reg. Sess., 1986), c. 1014, s. 149(a); 2011-145, s. 13.22A(t).)

**§ 106-852. Committee established.**

Detailed plans for implementing the program shall be reviewed and suggested changes and reasons therefor shall be given by a committee consisting of the Master of the North Carolina State Grange, President of the North Carolina Farm Bureau Federation, the North Carolina Commissioner of Agriculture, the Dean of the School of Agriculture and Life Sciences at North Carolina State University, the Dean of the School of Agriculture at North Carolina Agricultural and Technical State University, the Chairman of the State Soil and Water Conservation Commission, the President of the North Carolina Association of Soil and Water Conservation Districts, the Executive Director of the Wildlife Resources Commission or a designee, and the Director of the Division of Marine Fisheries or a designee. The committee shall review the program prior to expenditure of any funds for the program. Certification documenting the committee's review of the program shall be made in writing to the Speaker of the House of Representatives, the President of the Senate, the Chairmen of the Appropriations Committees of the Senate and the House of Representatives, the Director of the Fiscal Research Division of the Legislative Services Office, and the Legislative Library. (1985 (Reg. Sess., 1986), c. 1014, s. 149(a); 1989, c. 500, s. 117; 1993, c. 321, s. 261; 2011-145, s. 13.22A(t).)

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